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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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In re:

DENARDO CAPITAL MANAGEMENT LLC,

Chapter 11

Case No. 21-22098 (rdd)

Debtor.

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In re:

DENARDO CAPITAL II LLC,

Chapter 11

Case No. 21-22099 (rdd)

Debtor.

-----X

**MOTION OF THE DEBTORS PURSUANT TO RULE 1015(b)
OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE
FOR ENTRY OF AN ORDER DIRECTING THE JOINT
ADMINISTRATION OF THE CHAPTER 11 CASES**

DeNardo Capital Management LLC (“Management”) and DeNardo Capital II LLC (“Capital”) (Management and Capital together, the “Debtors”), by their proposed attorneys Kirby Aisner & Curley LLP, file this motion (the “Motion”) for an entry of an order directing the joint administration of the Chapter 11 cases, respectfully state and represent as follows:

JURISDICTION

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of these proceedings

and this Motion is proper in this District pursuant to 28 U.S.C. §§1408 and 1409.

2. The statutory bases for the relief requested herein are §§ 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”), and Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

BACKGROUND

3. On February 16, 2021 (the “Petition Date”), each of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”).

4. The Debtors are managing their property as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

5. No trustee, examiner, or committee of creditors has been appointed in these cases.

6. Management is the sole member of Capital. Capital owns a residential development project located in Irvington, New York.

RELIEF REQUESTED

7. In order to provide for the most efficient administration of the Chapter 11 Cases, as well as to carry out and properly administer the Debtors’ bankruptcy proceedings, by this Motion the Debtors seek entry of an order pursuant to Bankruptcy Rule 1015(b) authorizing the joint administration, for procedural purposes only, under the case number assigned to DeNardo Capital Management LLC, 21-22098.

JOINT ADMINISTRATION OF THESE CASES IS WARRANTED

8. Bankruptcy Rule 1015(b) provides, “[i]f... two or more petitions are pending in the same court by or against ...a debtor and an affiliate, the court may order a joint administration of the estates.” See Fed. R. Bankr. P. 1015(b). The Debtors are “affiliates” as that term is defined under section 101(2) of the Bankruptcy Code. Accordingly, this Court is

authorized to grant the relief requested herein.

9. Many of the motions, hearings and orders that will arise in the Chapter 11 Cases will jointly affect both Debtors. By jointly administering the Chapter 11 Cases, the Debtors will be able to reduce fees and costs resulting from the administration of these cases and ease the onerous administrative burden of having to file multiple and duplicative documents.

10. The Debtors will continue to operate as separate and distinct legal entities and propose to continue to maintain their books and records as set forth above, consistent with their prepetition practices.

11. Entry of an order directing the joint administration of the Chapter 11 Cases will avoid duplicative notices, applications, and orders, saving the Debtors considerable time and expense. Rights of creditors will not be adversely affected as this Motion requests only administrative, and not substantive, consolidation of the Debtors' estates. Creditors' rights will be enhanced by the reduced costs resulting from joint administration of the Chapter 11 Cases. The Court also will be relieved of the burden of entering duplicative orders. Supervision of the administrative aspects of the Chapter 11 Cases by the Office of the United States Trustee for the Southern District of New York will be simplified.

12. Accordingly, the Debtors request that the caption of the Chapter 11 Cases be modified to reflect the joint administration of such cases, as follows:

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

DeNardo Capital Management LLC, et al.

Chapter 11
Lead Case No. 21-22098 (rdd)

Debtors.

-----X

13. The Debtors also seek the Court's direction that a notation substantially similar to the following notation be entered on the docket of each of the Debtors to reflect the joint administration of these cases:

"An order has been entered in this case directing the procedural consolidation and joint administration of the Chapter 11 cases commenced by DeNardo Capital Management LLC and DeNardo Capital II LLC. The docket in Case No. 21-22098 (rdd) should be consulted for all matters affecting the above listed cases."

NOTICE

14. Notice of this Application has been provided to (i) Office of the United States Trustee; (ii) the Debtors' twenty (20) largest unsecured creditors; (iii) the Debtors' five (5) largest secured creditors; and parties who have filed notices of appearance. The Debtors submit that said notice is adequate and proper.

15. No previous application for the relief herein requested has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request the Court to enter an order substantially in the form annexed hereto as **Exhibit A** directing the joint administration of the Chapter 11 cases under the case number assigned to DeNardo Capital Management LLC, and such other and further relief as may be just and proper.

Dated: Scarsdale, New York
February 16, 2021

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By: /s/ Erica R. Aisner
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